

Amendment No. 1 to HB0742

Keisling
Signature of Sponsor

AMEND Senate Bill No. 705

House Bill No. 742*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 57-3-217(b), is amended by deleting subsection (b) and substituting instead the following:

(b) A winery direct shipper, meeting the requirements of this section, may make sales and delivery of wine by common carrier to the citizens of this state over the age of twenty-one (21) who have purchased the wine directly from the winery direct shipper, subject to the limitations and requirements imposed by this section; provided, that a winery direct shipper may only ship wine sold under a brand name owned by or licensed to the winery, which is either:

(1) Produced by the winery, including manufactured in a manner authorized pursuant to § 57-3-207;

(2) Produced exclusively for the winery under an existing written contract with the winery; or

(3) Produced and bottled exclusively for the winery.

SECTION 2. Tennessee Code Annotated, Section 57-3-217(c), is amended by deleting the language "issuance of a winery direct shipper's license" and substituting instead the language "issuance or renewal of a winery direct shipper's license".

SECTION 3. Tennessee Code Annotated, Section 57-3-217, is amended by adding the following new subsections:

() Notwithstanding any law to the contrary, a fulfillment house, as defined in Section 4 of this act, is not eligible for licensure or renewal of a winery direct shipper's license.

() The commission may require a winery direct shipper licensed under this section to provide quarterly reports to the commission. The commission may request information or records that the commission may deem necessary to enforce this section to be included in such reports.

SECTION 4. Tennessee Code Annotated, Title 57, Chapter 3, Part 4, is amended by adding the following new section:

(a) As used in this section, "fulfillment house" means an in- or out-of-state entity, other than a winery, wholesaler, non-resident seller, or common carrier, that handles logistics, including warehousing, packaging, order fulfillment, or shipping services on behalf of the holder of a winery direct shipper's license for products that the winery direct shipper is eligible to ship to residents in this state.

(b)

(1) A person, firm, limited liability company, or corporation may apply to the commission to obtain a fulfillment house license for each location that is involved in shipping wine to residents of this state. The applicant shall pay an application fee of three hundred dollars (\$300), an annual license fee of seven hundred fifty dollars (\$750), and an additional fifty dollars (\$50.00) for each separate location before making or causing a shipment into, within, or outside of this state. A fulfillment house license must be renewed annually.

(2) The holder of a fulfillment house license may only provide services related to shipment of wine into or within this state for the warehousing,

packaging, and shipment of wine produced by and belonging to a licensed winery holding a winery direct shippers license in this state and according to the requirements of this section. A fulfillment house licensee shall not provide services related to shipment of wine into or within this state to a retailer licensed under this title, an entity licensed as an out-of-state retailer, or a person or entity that is not a winery direct shipper licensed pursuant to § 57-3-217.

(c) A fulfillment house license applicant shall provide the following information as part of its application:

(1) All locations under the license from which wine will be shipped;

(2) An executed consent to jurisdiction and venue of all actions brought before the commission, a state agency, or a court of this state, such that all hearings, appeals, and other matters relating to the license of the fulfillment house will be held in this state;

(3) A written acknowledgement that the fulfillment house licensee will contract only with common carriers that agree that a delivery of wine made in this state must be by face-to-face delivery, that a delivery will only be made to a person who is at least twenty-one (21) years of age, and that delivery is contingent upon the recipient signing upon receipt of the wine; and

(4) Other information required by the commission or contained in the fulfillment house license application form, as prescribed by the commission.

(d) A fulfillment house licensee shall ensure that all containers of wine shipped directly to a person in this state are labeled with the conspicuous words "SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY", and the name, address, and license number of the fulfillment house licensee.

(e) Each container of wine shipped directly to a person in this state must be shipped using a common carrier. A fulfillment house licensee shall not ship wine into or within this state from, or on behalf of:

(1) A person or entity that is not a winery direct shipper licensed pursuant to § 57-3-217;

(2) A retailer licensed under this title; or

(3) An out-of-state retailer.

(f) A fulfillment house licensee shall verify that each winery direct shipper is licensed and authorized to ship to consumers in this state before making a shipment. Failure to verify proper licensure subjects the fulfillment house licensee to a fine, suspension, or revocation in accordance with subsection (i).

(g) A fulfillment house licensee shall maintain records for a minimum of three (3) years from the shipment date, which must include:

(1) The name, address, and license number of the licensed winery direct shipper;

(2) The name and license number of the common carrier;

(3) The date of each shipment;

(4) The common carrier tracking number; and

(5) The quantity, by weight or other means, and product type of wine shipped.

(h) A fulfillment house licensee shall submit these records as a report to the commission on a quarterly basis in the manner, form, and format prescribed by rule of the commission.

(i) A fulfillment house licensee found in violation of this section is subject to fines, suspension, or revocation of its license in accordance with this title, and shall reimburse the commission for all costs incurred in connection with the investigation and

administrative action, including out-of-pocket costs and reasonable personnel costs.

The commission may adopt rules and conduct investigations and audits as it may deem necessary for enforcing and preventing violations of this section.

(j) The requirements for a common carrier under § 57-3-217 apply to wine obtained from a licensed fulfillment house on behalf of a winery direct shipper to the same extent as if the common carrier obtained the wine from the winery direct shipper directly.

SECTION 5. Sections 1 through 3 of this act take effect upon becoming a law, the public welfare requiring it, and apply to a winery direct shipper's license issued or renewed after such date. Section 4 of this act takes effect on January 1, 2022, the public welfare requiring it.